



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/153487

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 15, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on December 12, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly closed petitioner's FS effective November 1, 2013 for failing to provide requested verification.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Yia Xiong

Milwaukee Enrollment Services  
1220 W Vliet St, Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Kelly Cochrane  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On October 28, 2013 petitioner had a renewal for FS. The agency requested verification of her last 30 days of employment.
3. On October 28, 2013 petitioner faxed the agency the requested employment verification.

4. On October 29, 2013 the agency issued a written request for the verification. The information was due to the agency on November 7, 2013. Exhibit 1.
5. On November 8, 2013 the agency issued a notice of decision to petitioner stating that effective November 1, 2013 her FS would end because she failed to provide the requested verification.

### **DISCUSSION**

Federal regulations that govern the FS program require that certain items must be verified, that is, confirmed by documentation or third party contacts. 7 CFR 273.2(f)(2). Local agencies may request verification of other factors if information provided at application, review, or reported change is questionable, unclear, or incomplete and would have an effect on FS eligibility or benefit level. *FoodShare Handbook*, §1.2.5, available online at <http://www.emhandbooks.wisconsin.gov/fsh/fsh.htm>. Such items include student status, gross nonexempt income, residency and shelter costs. See, 7 C.F.R. §273.2(f), generally. In this case, the agency requested information regarding her employment/income. See *FoodShare Handbook*, §1.2.4.2. The local agency must give food units at least 10 days to provide required verification. *FoodShare Handbook*, §1.2.1. Requests for verification must be made in writing. Workers are required to give the customer notice regarding required verification, when it is due to the agency, and the consequences of not verifying timely. If an individual does not provide verification within the requested timeframe, FS are to be denied. *FoodShare Handbook*, §1.2.1.2.

In this case, the agency properly requested verification but it had no record of receiving it by the due date. At hearing, petitioner was credible in her testimony as to her fax of that information on the same day as her renewal. She was able to provide a letter from her employer indicating that she had helped petitioner fax the forms and that it occurred on October 28, 2013, and that the fax machine confirmed at that time that the information was sent. I find that the petitioner was able to rebut the agency's argument between her testimony and evidence. As such, I will remand the matter to have the agency recalculate petitioner's FS effective November 1, 2013 and issue it accordingly.

### **CONCLUSIONS OF LAW**

The agency has not met its burden to show that it was correct in denying petitioner's FS effective November 1, 2013 for failing to timely verify information.

**THEREFORE, it is**

### **ORDERED**

That the matter be remanded to the agency with the following instructions: (1) accept petitioner's employment verification as received on October 28, 2013 (2) redetermine petitioner's FS eligibility effective November 1, 2013, (3) issue any FS benefits accordingly, and (4) issue a notice of decision regarding same. In all other respects, the petition for review is dismissed.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as

"PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

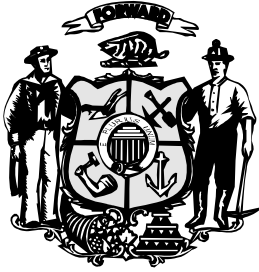
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 6th day of January, 2014

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\sKelly Cochrane  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on January 6, 2014.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability